

REMARKS

This Amendment is submitted in response to the Office Action dated March 29, 2011, having a shortened statutory period set to expire June 29, 2011. Applicant has amended claims 1, 11, 25, 30, 84 and 127 without prejudice or disclaimer to the subject matter recited therein. Reconsideration of the present case is earnestly requested in light of the following remarks.

Double Patenting Rejection

Applicant acknowledges that Claims 1-2, 4-20, 25-32, 44-46, 84-91, 127-138, 176-177 and 188 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 170, 172-173, 177-178, 180-182 and 184-213 of co-pending US Patent Application No. 11/391,631. Applicant submit herewith a terminal disclaimer to overcome the provisional obviousness-type double patenting rejection.

Claim Rejections Under 35 USC §112

Claims 1-2, 4-20, 25-32, 44-46, 84-91, 127-138, 176-177 and 188 are rejected under 35 USC §112, first paragraph as failing to comply with the written description requirement. That rejection is respectfully traversed and reconsideration of the claims is requested.

It is argued on page 6 of the present Office Action that there is no support in the specification for “transmitting...a message to the user **from** a business promoting goods or services of the business.” A relevant paragraph in the specification states “[f]or example, the user accessing a network through an access point in a hotel may be provided information about promotions offered by that hotel” (page 14, para. 1). Applicant respectfully submits that “promotions offered by that hotel” are inherently messages **from** such hotel, since one skilled in the art at the time of the invention would consider a promotion offered by an entity to be a promotional message from such entity to the consumer. Notwithstanding that the previous claims are fully supported in the specification, Applicant has amended the independent Claims to more closely track the language of the specification in the first paragraph of page 14 to avoid any further debate regarding support in the specification. For example, Claim 1 in the present application now recites “*the customized message provides information about promotions offered by a business related to the geographic location of the computing device and wherein the message is selected based on the identification information and the third party*”

information, wherein the business is not the service provider or the user.” Applicant believes that this element and all other elements of pending claims are fully supported in the specification. Applicant respectfully requests withdrawal of the rejection under §112.

Claim Rejections Under 35 USC §103

Claims 1-2, 4-6, 9-10, 44, 188, 25-30, 32, 45-46, 84-91 and 176-177 are rejected under 35 USC §103(a) as being unpatentable over *Singer et al.* (US 5,485,163) in view of *Muffat et al.* (European Cooperation on Dual Mode Route Guidance-Perspectives for Advanced Research Partners). Claims 7, 8 and 31 are rejected under 35 USC §103(a) as being unpatentable over *Singer* in view of *Muffat* and further in view of *Labeledz* (US 5,608,854). Those rejections are respectfully traversed and reconsideration of the claims is requested.

With regard to Claim 1, therein is recited, *inter alia*:

“transmitting, via the network and access point, content to the computing device, wherein the content comprises a customized message based on the geographic location of the computing device, wherein the customized message provides information about promotions offered by a business related to the geographic location of the computing device and wherein the message is selected based on the identification information and the third party information, wherein the business is not the service provider or the user”

Neither *Singer* nor *Muffat*, taken individually or in combination anticipates or renders obvious this element of Claim 1.

In response to Applicant’s remarks in the previous response, the examiner argues on page 3 that “it is also maintained that the information such as services in Figure 3 of *Muffat* qualifies as a message that is (*sic*) relates to a business promoting goods or services of the business because it promotes the user to use the services. Also, a message related to a business promoting goods does not mean that a message actually promotes the goods.”

With regard to the information shown by *Muffat* in Figure 3, the listing of “Information Services” identifying the locations of gas stations, garages, hotels, doctors, pharmacies or hospitals is neither a “message” nor “promotions offered by a business.” For example, with reference to the definition of “promotions,” Merriam-Webster dictionary defines “promotion” as:

“the act of furthering the growth or development of something; *especially* : the furtherance of the acceptance and sale of merchandise through advertising, publicity, or discounting”

(<http://www.merriam-webster.com/dictionary/promotion>)

Based on this definition, the English structure of “promotions offered by a business” is the furtherance of the acceptance and sale of merchandise through advertising, publicity, or discounting offered by a business. Referring back to *Muffat*, the location information presented by the Socrates system presents location information for local businesses but in no way presents any advertising, publicity or discounting offered by the local businesses. For at least these reasons, Applicant respectfully submits that *Muffat* in no way anticipates or renders obvious, taken individually or in combination with *Singer*, ***“transmitting, via the network and access point, content to the computing device, wherein the content comprises a customized message based on the geographic location of the computing device, wherein the customized message provides information about promotions offered by a business related to the geographic location of the computing device and wherein the message is selected based on the identification information and the third party information, wherein the business is not the service provider or the user.”*** Applicant respectfully requests reconsideration of the rejection of Claim 1 as being unpatentable over *Singer* in view of *Muffat* under §103.

In conclusion, Applicants respectfully submit that neither *Singer et al.* nor *Muffat et al.*, nor *Labeledz*, nor any other prior art of record, taken individually or in combination, anticipates or renders obvious exemplary independent Claim 1 and the claims dependent thereon in the present application, and that therefore the rejection of those claims under §103 should be withdrawn. For the same reasons as given above with respect to independent Claim 1, Applicants submit that independent Claims 11, 25, 30, 84 and 127, and the claims dependent thereon, are similarly not anticipated or rendered obvious by *Singer et al.*, *Muffat et al.*, or *Labeledz*, or any other prior art of record, taken individually or in combination, and that the rejections of those claims under §103 should also be withdrawn.

Having now responded to each rejection set forth in the present Office Action, Applicant believes all pending claims are now in condition for allowance and respectfully request such

allowance. Applicant invites the Examiner to contact the undersigned at the below listed telephone number if a telephone conference would expedite prosecution of this application.

Respectfully submitted,

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